

Transnational diffusion of knowledge in practice: observing *in situ* the European Platform of Regulatory Authorities

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ABSTRACT

Multi-level networks of regulators are considered vectors of norm diffusion and regulatory coordination. However, this is often assumed without an empirical scrutiny of the concrete “micro” interactions taking place between members of regulatory authorities in networks, which remain a “black box” for analysts. This paper is based on direct observation and informal interviews conducted during a meeting of EPRA, the European Platform of Regulatory Authorities in charge of regulation of the broadcasting sector. It mainly seeks to elucidate what networking, deliberation, and learning, all considered devices typical of “soft” governance modes, mean as concrete social practices within a network.

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INTRODUCTION

National regulatory agencies increasingly operate in a context of interdependence, as they are frequently embedded in transnational networks of regulators whose establishment is promoted by supranational bodies such as the EU Commission (Coen and Thatcher 2008; Eberlein and Grande 2005; Eberlein and Newman 2008; Levi-Faur 2011; Martens 2008; Slaughter 2004). These multi-level networks are considered vectors of regulatory coordination: the embeddedness of national regulatory bodies into them is deemed to contribute to the sharing of experiences, increasing mutual awareness and the dissemination of information, as well as, perhaps, the diffusion of common norms on appropriate courses of action:

“[A] key feature of a network is a shared problem on which there is an exchange of information, debate, disagreement, persuasion and a search for solutions and appropriate policy responses. Networks are a framework for policy-oriented learning... They represent a soft, informal and gradual mode for the international dissemination of ideas and policy paradigms. Through networks, participants can build alliances, share discourses and construct the consensual knowledge that defines an international policy community. Networks also enable actors to operate beyond their domestic context, and networks are the means by which organizations individually and in coalition can project their ideas into policy thinking across states and within global or regional forums.” (Stone 2004: 560).

Similarly to other “soft” governance modes such as the Open Method of Coordination, European networks should function as forums of cross-national learning and “informal harmonisation” (Eberlein and Grande 2005) through mechanisms such as benchmarking and best practices, which are deemed to operate, in turn, through one’s necessity to uphold one’s reputation in the face of peer pressure. As suggested by Scott (2010: 14), “participation in such networks is likely to shape one’s world view, and successes and failures in the terms of the network members are liable to meet with approval and disapproval”. Although the formalisation, cohesiveness, and influence of these networks vary, they are viewed as embodiments of transnational “epistemic communities” (Haas 1992; Thatcher and Coen 2008: 813). The latter are considered socialisation sites in which emerge at least a common knowledge base through information exchange, but also maybe deeper common values and norms through internalisation. More ambitiously, some regulatory networks can be considered to be part of these European institutions which act, in the words of Laffan (2004), as “identity builders”: they are propitious for the development of mutual empathy and thereby the generation of a common professional identity (*esprit de corps*).

But how does “incorporated transgovernmentalism” (Eberhard and Newman 2008) work concretely? The properties and consequences of networks are often taken for granted, without an empirical scrutiny of the concrete “micro” interactions taking place between network participants. In fact, the concrete operation of networks remains to a large extent a “black box” for analysts. What do regulatory networks concretely do, or rather what do people do in these networks? By focusing on deliberation and learning in a network, this paper intends to take seriously the following comment on the state of the art by Slaughter and Hale (2010: 365):

“More research is needed to understand the mechanisms through which socialization might occur within transgovernmental networks, the relation between socialization and the operation of networks, and the conditions under which socialization occurs or does not occur... scholars need to better understand the way influence and power operates within transgovernmental networks.”

The paper is based on direct observation, informal semi-directed interviews, and discussions during a meeting of EPRA, the European Platform of Regulatory Authorities in charge of the regulation of the broadcasting sector.² It does not cover all aspects of the EPRA meeting, but rather concentrates on the specific research question of how transnational diffusion of knowledge concretely takes place (or not) in a network. The paper is structured along the following lines: after discussing issues related to case selection and methods, it deals with the setting of the observed event, the characterisation of the network, and what “networking” implies as social practice. The paper then seeks to capture what deliberating and learning in a network mean, before concluding with a discussion of the more general validity of the findings.

CASE SELECTION

There is substantial cross-sectoral variation regarding the role, and after all the power, of regulatory networks. For instance, the financial sector displays a highly integrated network of agencies related to a strongly liberalised and internationalised sector, while the communications sector is configured as a looser cluster of regulators that must deal with a narrow group of domestic-based powerful stakeholders (Coen and Thatcher 2008). Set up in 1995, the EPRA is in comparative terms a loose network, even though its members are the formal national or regional institutions endowed with the task of regulating the broadcasting sector. Its core business is the exchange of information about problems and practices; one should not think of it then as an instance that adopts common positions or steers regulatory coordination.³

The EPRA defines itself on its website as

“a forum: for informal discussion and exchange of views between regulatory authorities in the broadcasting field; for exchange of information about common issues of national and European broadcasting regulation; for discussion of practical solutions to legal problems regarding the interpretation and application of broadcasting regulation. Rather than pursuing national directives or acting as a tribune of common declarations,

² I spoke to my Swiss colleagues who had kindly invited me to be part of their delegation (see below), and asked to a large extent the same questions to a Croatian member of the EPRA board, as well as to members of the delegations of Cyprus, the Czech Republic, France and the European Commission (the latter showed much interest in my research, being a political scientist himself). My informal interviews lasted between ten and thirty minutes and, surprisingly to me, no one among my interviewees requested that I respect his or her anonymity (maybe that was due to the informal nature of the interviews).

³ See Harcourt (2007) on the impact of the European Union upon the regulation of national media markets.

EPRA provides an open platform for discussions on a wide variety of relevant topics to regulators.”⁴

The bilingual (English-French) bulletin *Regulation* issued by the Belgian authority of the Francophone region which hosted the meeting that I attended, and received by all participants upon registration, featured contributions by members of the EPRA board in which the “cooperative” dimension was clearly at the fore. The German member’s contribution was entitled “Cooperation within EPRA – What does it mean for me as a (regional) regulator?”, the contribution of the Italian member “To give and to take: that’s what EPRA is for”, and that of the Croatian member “How useful can EPRA be for a newly established authority?” The member from the British Ofcom noted in her contribution that “authorities cannot afford to regulate in complete isolation”, while she also interestingly suggested that “cooperation is not an altruistic exercise”.

The choice of the EPRA as an object of scrutiny was constrained by practical considerations (see below), and it is necessary to keep in mind that the external validity (potential generalisation) of any findings based on observations made on this network can be limited. Empirical evidence based on a single case or, even more, a single event may lack robustness. This is an important problem that often haunts case study work, but much less the ethnographic part of it that mostly uses direct observation as fieldwork strategy. Such studies are usually guided by an “interpretive” epistemology which is suspicious of positivist research postures guided by the goal of identifying causal mechanisms through process-tracing. In this research by contrast, ethnographic observation is a method (among other qualitative methods), “a technique for accessing and analysing observations” which is not accompanied by “attendant ontological and epistemological underpinnings” (Gains 2011: 161).

In order to provide an answer to the question of the generalisation of observations, we can think of policy-making in terms of “powering” and “puzzling”, the classic dichotomy characterising the two major facets of governance activities (Hoppe 2011: 7-11): participants in decisional processes are concerned both with the acquisition of power and with problem-solving. In a network like the EPRA, one should expect more “puzzling” (i.e. reflection and deliberation about how to best solve problems) than power games to take place, since this network has no binding capacity (Thatcher and Coen 2008: 821 table 3). Modestly (and significantly) called a “platform”, the EPRA is then the ideal place to study how mechanisms of (very) “soft” governance operate, e.g. the diffusion of norms and the development of learning through mutual suasion between peers. And if one nevertheless finds signs of “powering”, this is interesting as an indication of the limits of the argumentative and deliberative process even in an *a priori* favourable context.⁵

ABOUT METHODS

The empirical scrutiny of the concrete “micro” interactions taking place between members of regulatory authorities in networks necessarily commands the use of direct

⁴ <http://www.epra.org/articles/general-information-on-epra> (accessed on 22th May 2012).

⁵ By contrast, Coen and Thatcher (2008) opted for studying the formally more powerful networks in telecommunications and securities, treating them as least likely cases to prove their claim that even such kinds of networks are rather powerless.

observation. Although this method is central to the ethnographic study of social practices, observing networks *in vivo* and *in situ* is usually not an option for researchers, and this is also a more general limitation that scholars willing to identify the causal mechanisms of international knowledge diffusion generally face. The analysis of the role of regulatory networks is thus usually based on the study of documents (official and, whenever available, “grey” literature, secondary sources) and, because documents may leave some “puzzles” unresolved and those made public are often written in stereotypical language, interviews with network members tend to complement the empirical material for the sake of triangulation of sources.

The major originality of this paper lies precisely in its approach based on direct observation. I had the opportunity to observe a meeting (the 34th) of the EPRA, organised in Brussels—more precisely in La Hulpe, on the outskirts of this city—by the regulator of the *Communauté française de Belgique* on October 5-7 2011.⁶ In this meeting all national—and regional for federal states like Belgium, Germany, or Spain—regulatory authorities that are members of the network but one were present (forty-five countries were represented).⁷ The European Commission (DG Information Society and Media), the OSCE representative on freedom of the media, the Council of Europe (DGI Human Rights and Rule of Law), and the European Audiovisual Observatory are permanent observers in the network and attended the meeting as well.⁸

My presence was hardly noticed by the participants: although it would probably be presumptuous to assert that I became “part of the furniture” (Rhodes et al. 2007: 229), I was able to make my observations almost like “a fly on the wall” (Checkel 2006: 367). I think no one’s behaviour was affected by my presence, and nobody sought to impress me in anyway.⁹ “Being there” (Rhodes et al. 2007) was made possible thanks to an invitation by the Swiss Federal Office of Communications to be part of their delegation (this is the only option to participate in such a meeting). Fortunately, this invitation was equivalent to a *carte blanche* and was not accompanied by any restrictions like preservation of anonymity or any conditions like the scrutiny of my writings.¹⁰ I attended the whole meeting: on the first day the plenary session in the morning and one of the three parallel workshops in the afternoon, and on the second day the plenary morning session (but I did not attend the two excursions organised after the end of the

⁶ The 35th meeting was scheduled to take place in Slovenia in May 2012, and the 36th in Israel in November 2012.

⁷ According to the list of participants, delegations counted between one and seven members (for the French *Conseil supérieur de l’audiovisuel*), and were composed of medium- and high-level staff of the national regulatory authorities. There was a substantial proportion of female delegates, especially among the younger participants. According to a member of the Swiss delegation most participants were lawyers, like herself (she is also a part-time university lecturer).

⁸ We shall see later that the positions of the European Commission seem to matter more to participants than those of the other observers, although the EPRA is independent from the Commission (Levi-Faur 2011: 820, table 1).

⁹ I did not have contacts with more than ten percent of the 151 (according to the list I received) participants. Surprisingly to me (given the difficulties in accessing such meetings), the participants I contacted did not show any surprise when I explained to them the reasons for my participation.

¹⁰ The contacts with the Swiss regulator had been established through my research colleague, Dr. Manuel Puppis.

meeting). During the meeting I took notes on everything I considered interesting at the moment,¹¹ but as I expected, only part of these notes proved useful in the end.

Fieldwork based on direct observation is valuable for the purpose of “thick” description and fine-grained analysis. For example, observing the unfolding of a meeting preserves one from the risk of retrospective fallacy, i.e. the risk of inferring a process allegedly leading to outcomes from the reading of the latter. However, policy analysts seldom resort to this kind of approach, often because they have been socialised in the belief that “this is not scientific”. More charitably, one has to acknowledge the difficulty of making *de visu* observations due to entrance costs, the intensity of ethnographic work, and so forth. There are some significant exceptions focusing on high-level members of national bureaucracies (mainly several works by Mark Bevir and Rod Rhodes, most recently Bevir and Rhodes 2010 and Rhodes 2011) and on members of jurisdictions (by the French sociologist of science Bruno Latour (Latour 2010)). Nevertheless, works based on the direct observation of regulatory activities at the transnational level are almost non-existent (see however Abélès 2011 on the WTO, by a research group directed by a French anthropologist who had studied in the past the European Parliament and the European Commission).

SETTING AND LANGUAGE

The conference venue was a centre with facilities designed for this kind of event, somewhat isolated from the Belgian capital city, as it could practically not be reached with public transportation. It was a large hotel and conference centre, rather luxurious, but not indecently so, and apparently popular for this kind of event, as other conferences were held in parallel. My first surprise was to realise how much this meeting of a regulatory network looked like a scientific conference, including in the fact that not more than half of the delegates were formally dressed (and discipline was not much more stringent than among academics, given that the first session began at 9:20 am instead of the scheduled start at 9:00 am). However, there was simultaneous translation between English and French, something that most academic institutions and networks cannot afford. As expected, most delegates expressed themselves in English, but English does not seem to have been established completely as the *lingua franca* within the EPRA.

The initial address was given by the chair of the EPRA, who is also the head of the regulatory agency of the Belgian *Communauté française*; he spoke in English. He presented the situation in his region, emphasising that the borders in the broadcasting landscape in this area are porous, with the consequence that his authority regulates only twenty-seven percent of the market share, the rest being controlled by French channels as well as by private channels based in Luxemburg. The chairman shifted into French when he reported on EPRA activities since the last meeting held in Ohrid (FYROM). Fewer people than I expected resorted to the available facilities of simultaneous translation from French into English, but I am not able to say if this means that people are more fluent in French than I thought, or if they did not use their headsets because

¹¹ I mostly took my notes in Greek, so that it was difficult for others to decipher what I was writing. My neighbours of the Swiss delegation would all speak Swiss German dialect between them; therefore no one (including me!) was able to understand what they were talking about. But this of course had nothing to do with deliberate concealment.

they took this part of the meeting as a leisure opportunity (I could see that a delegate spent most of her time answering her emails and looking at pictures on her laptop). The discussions that followed during the meeting took place in the two languages, with simultaneous translation, and I must say that I was surprised by the rather strong presence of the French language. Things might be different in EPRA meetings that are not organised by French-speaking participants in their home country, but probably the presence of the French language also has to do with the particular properties of the audiovisual sector. For a topic like broadcasting regulation, language is indeed an issue, related to the quite prominent debate about cultural diversity, which has been mainly promoted in an activist manner by the French.¹²

EPISTEMIC COMMUNITY OR YET ANOTHER ARENA OF “POWERING”?

The image of network meetings I had (erroneously) constructed in my mind was that of a rather small group sitting and exchanging in a seminar room. Although this was correct for the workshop sessions that ran in parallel, the image I had was not appropriate for plenary sessions. It would be an exaggeration to state that the format of these sessions inhibited learning (after all, our students do learn something from the content that we inoculate to them in *ex cathedra* courses), yet it is rather inimical to a genuine exchange of arguments, and certainly not ideal for networking. Regulatory networks are considered typical multi-level governance devices, but one should not forget that (in the case of formal networks at least) their members are official national representatives.

This implies an intergovernmental component as well, which was visible in the staging of the EPRA meeting. The plenary session room looked a bit like the United Nations General Assembly: each national delegation could be identified through a small flag on its desk. This looked strange to me but seemed self-evident for the participants and, beyond symbolism, international power politics are not completely absent from activities around networks. It may happen that agencies serve as transmission belts for their government’s foreign policy: a Cypriot participant told me that their delegation believed it should be ready in such a meeting to counter the claims made by participants from Northern Cyprus (occupied by the Turkish armed forces since 1974) who were included in the Turkish delegation.

It was not only the ritual of plenary sessions that looked a bit like the UN, but also some discursive moments. For example, some regulators used the period dedicated to reporting by national delegations to complain about political interference with their work in their home countries, and to request support by their counterparts. Few regulators reported being seriously threatened in their independence, or even in their agencies’ existence, particularly in Spain, where it seems that there is diffusion of mistrust for independent agencies. The delegate of the regional regulator of Catalonia, for example, expressed concerns about a bill that will allow the revocation of members of its Council during their mandate. The new chair of the regional regulator of Andalusia read a political statement criticising the intentions of the regional government to dismantle the authority and considering this a “threat to democracy”. Similarly, the

¹² See Littoz-Monnet (2010) on protectionist strategies promoted in a deliberately *dirigiste* manner by the French government during the debates on the Television Without Frontiers directive.

delegate of the regional regulator of Navarra spoke about the plans of the regional government to abolish the independent authority, and urged EPRA members to write letters of protest to the government and to the regional parliament. The EPRA chairman left the decision to act in the hands of each delegation, and said the EPRA cannot take a common stand, as if domestic politics should not contaminate the business of transnational reflection.

Becoming aware of such acute problems some regulators face made me think that, even if it would be appropriate for them to be concerned with network functions such as learning from best practice, benchmarking and the like, other more existential issues stand understandably at the forefront. One may add to the Spanish saga the “short and sad” story narrated by the delegate from FYROM about the increase without prior consultation of the number of members of the regulator’s Council from nine to fifteen, in order to ensure governmental control, a story that concluded with disillusionment in the statement that “there is no independence anymore”. This episode strongly contrasted with the next sequence: a spot advertising the tourist highlights of Portoroz, the Slovenian sea resort where the next EPRA meeting was scheduled!

We know that not only agencies enjoy very different levels of *de jure* independence across countries, but that even with *de jure* independence kept constant, there can be significant variation in agencies’ *de facto* independence (Maggetti 2007). One should take this kind of uncontrolled information with caution, but I heard in the meeting that the executive staff of the Moldova agency were imprisoned when they disagreed with the government. I even heard that the former leader of the delegation of the Serbian broadcasting authority was a priest, which of course raises the issue of (lack of) agency expertise. In any case, especially with respect to a network like EPRA that includes members from countries with weak democratic credentials, one should not be misled by the idealised view of its members being necessarily independent expert bodies whose staff highly prioritise the network’s learning function. Unlike the network, the arena of domestic politics can be strongly characterised by “powering”, especially as media regulation is likely to have strong redistributive effects on political and economic actors.

In order to identify more accurately the concrete configuration of the domestic arena in which regulators are embedded, it would probably be suitable to disaggregate the level of analysis. The study of agency independence has focused so far on the impact of “macro” variables (see Maggetti 2007), such as the existence of “veto points” in the political system (in this case with the rationale that if the system contains institutional veto points, sufficient guarantees for policy stability exist, and there is therefore less need for agency independence). I realised from my discussions at the EPRA meeting (most notably with members of the Czech and Cypriot delegations) that in the indigenous perceptions of agency members it is more “micro” and contingent factors, such as the kind of relations between the head of the regulatory authority and the minister in charge, that count as essential for agency autonomy. Each of these perspectives certainly has its own blind spots: the first approach is a bit disembodied, and the second probably misses regularities. But they are not necessarily contradictory: one could, for instance, hypothesise that, keeping systemic factors equal, interpersonal relations matter; or that the latter systematically depend themselves on a number of more general conditions, such as ideological proximity or common socialisation

between agency heads and ministers, traditions of political control of the administration, and so on.

“NETWORKING” IN THE NETWORK

It is trivial to assert that networks are deemed to facilitate networking among their participants, that is, sharing experiences, making encounters that can be helpful to increase one’s knowledge, and the like. But this is precisely so trivial that it is almost never asked what “networking” concretely means, how it is embodied in concrete social practice and, after all, to what extent it takes place. Although people often mention networking when asked about the interest for them to participate in network events, “networking” may remain an “empty signifier” (Lévi-Strauss 1987: 63-64): what “networking” really implies and what its effects are can be very vague. In addition, both the amount of networking and its positive effects are probably overstated. We know, for example from network analysis techniques, that one finds in networks both core actors who are in a “nodal” position, and peripheral largely isolated actors.

Similarly to how it happens in scientific conferences, one can expect networking to take place in network meetings above all informally, e.g. at lunchtime or during coffee breaks. I observed how people behaved at breakfast or dinner, where they were free to choose a table at which to eat. Some sat in small groups but others sat alone and my impression was that new groups were very seldom formed during the meeting. Similarly, at coffee breaks, national delegations would often stay by themselves. I also talked about networking with a member of the Swiss delegation who was familiar with the EPRA meetings, and what he said about his activities was ambiguous. He had spent the evening before talking after dinner until 1 a.m. with Dutch colleagues about professional matters. Like many others, he asserted that informal contacts are important, but he also admitted not knowing many participants. Another member of the same delegation affirmed to have established more contacts with representatives of Nordic countries, and related this to the fact that she speaks Swedish and had spent a year in Sweden a couple of years ago. It appears, then, that personal attributes are not irrelevant for the formation of networking capacity (and willingness). Being confronted with the usual statement that networking helps participants learn and exchange from experience, I asked what happens in the long term with the established contacts. My interviewee said that she did not know: whether networking has durable effects may be hard to assess.

On the other hand, networking can also have positive personal effects: the EU commissioned a study to a private firm, which in turn asked my Swiss colleague to write the section dedicated to her home country.¹³ To what extent this increased the knowledge of my colleague is hard to assess, but this kind of consequence of networking, with a possibly indirect impact on individual learning, cannot be easily identified unless one becomes rather familiar with network participants. Another virtuous effect that is not part of the network’s aims is facilitation of bridge-building: a Cypriot (young) participant told me that after few meetings she now exchanges with younger members of the Turkish delegation, although Cyprus and Turkey are in conflict (see above). She

¹³ Similarly, the Croatian member of the EPRA executive board, who is working on a Ph.D. thesis in communication sciences and who probably does not exclude the option of pursuing an academic career, said to me that his participation at the EPRA board allows him to add a line on his c.v.

added that her agency gradually gained more confidence to establish contacts (for instance, the delegation paid an official visit to the CSA in France).

DELIBERATING IN THE NETWORK

The literature on networks implicitly or explicitly assumes that they are sites of deliberation. I therefore considered “deliberation” a core “sensibilizing concept” (Bray 2008: 303) indicating the direction in which I should look. A first obvious question of interest to students of regulatory networks is on the object of their deliberations. What kind of experiences and problems were on the agenda of the EPRA meeting? Describing the EPRA agenda is rather easy, as even external observers can rely for that on the official documents that are made public. Thus, this paper does not cover the whole meeting agenda, but rather briefly evokes the topics that were discussed in moments I considered interesting for the scrutiny of deliberations.

It is more difficult to identify the process of agenda-setting of these topics: it happens in the “backstage” of board meetings, and it may entail conflict and “powering” that do not appear openly. Tracing the process that made this meeting of the EPRA concentrate on the topics that were finally put on the agenda goes beyond the goals of this paper, which rather focuses on how participants deliberated with each other during the network meeting. There are countless works assuming that “soft” regulation in this kind of forums approximates the principle of “deliberative supranationalism” (see Jörges and Neyer 1997 on EU comitology committees) which is embodied in problem-solving-oriented attitudes on behalf of their members, the latter being guided by concerns for the common good and able to transcend interest-based calculations. Given that this network is prototypical of the “soft” variant of regulatory networks, it can be considered a crucial case to test such assumptions belonging to scientific “common sense”.

Let us see, then, what happened in the first session of the meeting, which was devoted to legal problems caused by the development of on-demand media services. This session was introduced by a legal specialist from a Scottish university, whose input was followed by comments from selected delegates of national regulatory bodies (from the United Kingdom, France, and Slovakia). They all emphasised limits of control, due for instance to uncertainties about the service provider or, when the provider is known, to the fact that it is based abroad and thus escapes national regulation. A problem-solving approach clearly prevailed in the discussions and continued to prevail after the coffee break, with the discussion of five regulatory puzzles. This session focused on typical situations that are problematic for regulators, and which were exposed in a background paper made available to the participants.

Although the five cases were presented as fictitious, some participants (apparently the best informed) expressed their amusement, given the proximity of these cases with real-world problems that regulators actually faced in their practice. Given that some issues were sensitive for some countries or for their relations with their neighbours, the chair of the session insisted on the fictitious character of the cases and that no minutes would be kept from the discussions. I referred above to the intergovernmental aspect of the EPRA meeting: national interests or the preservation of distinct national policy styles are sometimes at stake, but at least to the Belgian chair of the debates it appeared somewhat “inappropriate” (March and Olsen 2009) if this came to be expressed openly,

because he probably anticipated this could lead to unwelcome conflict. For instance, referring to one of the allegedly fictitious cases, the chairman signalled it bore a strong similarity to a national legislation, while turning to his French colleague. When the latter reacted, he reminded the participants in an amused tone that the discussion was about a fictitious case. Any interstate rivalries were considered a sort of “noise” for the meeting atmosphere. Not only was the “powering” dimension of interstate interactions not prominent, but when it emerged, it was kept at the margin to avoid contaminating the meeting.

This was not the only indicator of the prevalence of common orientations over divergences. The French approach to regulation, propagated under the banner of diversity, contrasts with the more hands-off approach of, say, the British regulator. As suggested from members of the French delegation, each potential opinion-maker seeks support for its views from other delegations that share them (the French cited the French-speaking Belgians and the Catalans, who obviously share a concern for cultural diversity). However, in spite of attempts at some sort of coalition-building, one should not overstate the intensity of conflict.

In the debate that took place in the afternoon session of the first day, the regulators displayed common views *vis-à-vis* outsiders, and this was a nice illustration of the common way of thinking developed by people who believe they have a mission to carry out. This session was about the protection of minors and the invited guests—two British and one Italian—came from the private sector. Although it was a bit surprising for me to hear in such a meeting these persons (among others) advertise their firms, the debate clearly mirrored a public-private cleavage: the guests from the private sector insisted on the virtues of self-regulation, whereas the network members preferred to express doubts whether self-regulation provided sufficient guarantees for the protection of minors. This was summarised with humour by the chairperson of this session (a member of the British Ofcom), who concluded that the guests from the private sector showed their preference for self-regulation, but to an audience composed of regulators who want to have something to do... In a similar vein, in the discussion on program monitoring, a member of the French CSA explained the development of a system targeting more control, and this generated admiration among the other panellists.

However, the existence of a deliberative atmosphere does not mean that the deliberative power is equally distributed: some actors are more legitimate message producers than others, because they enjoy more authority. In other words, the (relational) “force of the better argument” is underpinned by a (structural) capital of credibility:

“Influence within a transgovernmental network is certainly also a function of state power, but may also include other factors. The goal of many networks is to share experiences, learn from colleagues and coordinate action around ‘best practices’. To become influential an actor must win colleagues over to their point of view by means of their technical expertise, practical experience of reasoned argument.” (Slaughter and Hale 2010: 366).

Direct observation does not allow one to measure the concentration or the dispersion of authority, but it allows one to identify it on a reputational base. Take the previous example. The five cases were first commented upon by the members of the British

Ofcom, French CSA, and Slovak CBR who had already given talks in the first part of the morning session, and this was followed by various interventions. Among the comments on the first “hypothetical” case was the intervention of an Italian member of the EPRA executive board. The intervention, which concluded with a comment on the Italian situation, seemed to be based on sound arguments, and my Swiss colleague said she had anticipated from her experience that this person would intervene, because she counts her among the opinion-makers in the assembly. Clearly, my colleague did not assign the same degree of credibility to all participants: a member of the Italian delegation also often intervened in debates, but she did not take him seriously, unlike the opinions of the member of the EPRA board coming from the same country, saying this time that she could equally easily anticipate this person would ritually take the floor to make long statements.¹⁴ Where one speaks from matters: members of the executive board are persons whose opinion counts, thanks not so much to their formal status *per se*, but rather because being elected is viewed as an achievement, given that elections are strongly competitive (with delegations usually voting, according to the Croatian member of this board, for candidates whose positions they consider close to theirs¹⁵). Another case of authority based on structural properties is that of the European Commission: although the Commission is formally only an observer, its advice on all problematic cases was repeatedly sought at the end of the debates on each, by contrast with the opinions of other observers which did not seem to matter.¹⁶ In addition, the Commission representative was congratulated by the EPRA chairman for the quality of his contribution (see also below on accountability to the Commission).

A network like the EPRA often deals with complex technical matters, and this requires expertise. It is unavoidable that knowledge is unevenly distributed, for example, between more or less developed countries, or depending on the size of national regulatory agencies. Therefore, although it would be inappropriate to speak about power as domination, there were clearly leaders and laggards with regard to contributions to the debates. With respect to knowledge diffusion, the leaders endorse the role of “norm entrepreneurs”: either as individuals or as members of highly professionalised national organisations they are endowed “with skills and resources to make things happen” (Checkel 2012: 1-2). A Czech participant confirmed the gap between opinion-makers and opinion-takers by insisting on the inactivity of small countries, which can be explained, according to her, by the fact that large regulators can more easily “detach” people who permanently deal with matters related to the network, and thus specialise in them. According to a Cypriot delegate, large countries are more

¹⁴ This was confirmed to me by a member of the Cypriot delegation.

¹⁵ This was confirmed to me by a member of the Swiss delegation.

¹⁶ When cases involved a conflict between EU member states, the Commission representative advised regulators to cooperate with each other. In a speech held on the second day session on program monitoring, a member of the Swedish agency informed the network that his agency had delegated to the British Ofcom the treatment of complaints concerning UK-licensed channels. Regarding inter-agency cooperation, in a further discussion round on the difficulties to establish qualitative criteria for program monitoring (for example on respect of pluralism), a Dutch participant evoked the cooperation of the Dutch agency with the Luxemburg regulator (where several channels are based), a Portuguese participant mentioned cooperation with the neighbouring Spanish regional regulators, a German participant with Austria and Switzerland, a Polish participant with the regulator of the Czech Republic, and so forth. This is not to say that cooperation is always smooth (see below on “peer” accountability).

self-confident, but this does not mean that small countries feel dominated. In a discussion we had during lunch, the Croatian member of the EPRA executive board told me it would be very surprising if a panel does not include someone from the British Ofcom and from the French CSA, even though the latter is currently not represented on the EPRA board. The sequencing of interventions on the second “fictitious” case approximated this configuration. There was first an intervention of the Slovak panellist who signalled the similarity with a case that the Slovak authority had been confronted with, then—on an equal footing with the interventions of national regulators—an intervention by an invited Scottish academic expert (see above), followed by an intervention of the panellist from the British Ofcom, and finally by the panellist from the French CSA, who requested clarifications from the Commission representative and pleaded for more regulation.

LEARNING IN THE NETWORK

One of the alleged virtues of deliberation is to lead to mutual learning: therefore “learning” is another major “sensibilizing concept”. The setting of the EPRA network fits most (but not all) of the scope conditions (SC) considered necessary by Checkel (2005 and 2009) for mechanisms of persuasion via socialisation to be effective at work.¹⁷ The EPRA can be adequately described as a rather weakly politicised setting: again, when delegations confronted with an unfriendly domestic environment requested support from EPRA members, the EPRA authorities insisted this was not the role of the network. Interactions in the network take place *in camera* (in the conference centre in the case of this meeting) (SC 5). Given the rapidly changing broadcasting landscape that poses a number of challenges (for example, legal “puzzles”), EPRA members clearly operate in an uncertain environment, and thus face strong incentives to overcome their bounded rationality and seek for information (SC 1). As regards uncertainty, several comments were nuanced by expressions such as “my hunch is...”, “I don’t know...”, and “it is somehow...” I was not able to notice anyone among the participants displaying deeply entrenched beliefs contradicting the network’s message as a socialising entity (SC 2). However, in this case that was not because the socialising entity is authoritative (SC 3), but rather because the EPRA is so “soft” that it does not produce anything like a unique message. Checkel’s SC 4 is about the fact that the socialising entity does not lecture or demand, but “acts out principles of serious deliberative argument” (Checkel 2005: 813). Virtually all deliberations were characterised by the presence of logical arguments, often backed by examples, and I did not hear claims based on the development of authority argument (remember, however, that this does not mean that authority is absent).

On the one hand, given that SC 3 is absent in the EPRA, one can expect socialisation to be rather shallow, precisely because the socialisation channel is of a “soft” nature. Policy science literature distinguishes different “orders” of learning (Hall 1993), and considers broad variations in the amplitude of learning, from learning on individual policy instruments to learning leading to change of deep core beliefs (Sabatier and Jenkins-Smith 1993). Similarly, studies of socialisation distinguish between more or less far-reaching, deep, and durable conversions. Learning can thus be purely instrumental, aiming simply at technical knowledge acquisition. In this case it does not imply the

¹⁷ The literature on regulatory networks tends to assume their role as socialisation sites without taking issue with the crucial question of socialisation “to what”, on which socialisation studies focus (including about EU governance: for a recent assessment see Beyers 2010).

sharing of interpretations, and even less socialisation to a worldview. The EPRA has a rich intranet site with abundant information, hyperlinks, and so on which are relevant for practitioners. There is an online forum as well: although I was not able to find out if it is extensively used or not, what I was told by a Cypriot delegate rather shows its usefulness. By posing questions, she came in touch with the Hungarian agency, with which her agency started technical cooperation, and both confronted their dependence for monitoring on the large Nielsen company. Learning also implies some homework: for instance, when it appeared that time was too short to discuss all the five fictitious regulatory puzzles, the EPRA chairman proposed that all delegations reflect on them and communicate their solutions to the EPRA secretariat, who would update the available background document with their solutions. I was not able to check to what extent this kind of homework was carried out, yet it is unlikely that it had high priority on the “to-do” lists of delegations back home.

On the other hand, Checkel’s SC 3 refers to the necessary presence of agents who are authoritative members of the in-group to which the targets of socialisation belong or want to belong. In a sense, then, “socialisation” means the gradual internalisation of the norms (perhaps even more broadly of the worldview) not of the network as a whole, but of the beliefs of the most influential among its members. My observations and discussions clearly made me conclude that some EPRA members were more opinion-makers—probably also more agenda-setters—in the network than others (see above). According to the Croatian member of the EPRA board, participants from countries with large organisations do not learn; instead, they seek to disseminate their knowledge and their beliefs in the network. This reminds one of Karl W. Deutsch’s definition of power in a communication perspective: power is “the ability to talk instead of listen, the ability to afford not to learn” (Deutsch 1963: 11). I asked for confirmation in a discussion with the delegates of the large French CSA: they claimed to have an interest in learning, but confess that this is a recent shift.

As regards the learning agents, such as regulators of smaller and less developed countries (typically new EU members, accession candidates, and countries beyond these circles), they seemed most attentive to examples and recommendations from entities they would consider their models (with the EU often performing such a role), from countries they consider similar to theirs, or simply from their neighbours (see also the diffusion literature, e.g. on the establishment of regulatory agencies Gilardi 2005).¹⁸ The perception of situational similarity seems both to create a sense of commonness and to facilitate inspiration: for example, the presentation by a member of the Swedish agency on program monitoring was followed by a discussion initiated by the Italian member of the EPRA board who reminded the group that “we share the same problems”, during which interventions from countries as diverse as Ireland, the Netherlands, Malta, or Denmark all emphasised the experience of similar situations. In an informal interview, one of the Cypriot delegates told me she was surprised to notice similarities of their monitoring system with the system in a country apparently as different as Sweden. With

¹⁸ Geographical, and to some extent cultural proximity as well, also led to the formation of smaller networks or forums for the cooperation of broadcasting regulators (Mediterranean, Central European, Nordic, Baltic, Iberian, French-speaking, and so on). See <http://www.epra.org/articles/other-platforms-and-networks-of-cooperation-between-regulatory-authorities> (accessed 12th June 2012).

EU enlargements and with several countries aspiring to join the EU, the pedagogic function of a network like the EPRA appears particularly prominent. An interesting observation (based on my discussion with the Croatian EPRA board member) is that even those regulators who are more lesson receivers than lesson producers in an international setting are often endowed with sufficient authority domestically to be considered expert actors and transfer their knowledge at this level. They are thus consulted in legislative revisions, join working groups, and often enjoy some discretion in the implementation of legislation, which allows them to draw from the inputs received in the network to construct their interpretations.

It should not be disregarded, however, that the cultural heterogeneity of the network causes problems. Asked in an informal interview about their “networking” partners, the Cypriot delegation mentioned regulators from the Mediterranean and the Balkan countries with whom they estimate they share similar problems (see above), which mainly lie in the fact that these countries lack a culture of compliance, so that the inclination for the regulated not to comply with regulations can almost be qualified as the default option.¹⁹ The Cypriot delegates insisted that the (strongly influential) West European members of the network fail to see this reality, which upsets their mental frames by introducing dissonance. In addition, the more a network includes participants with uneven levels of regulatory expertise, the stronger the informational asymmetries between its members. I suspect that some participants are not always able to scrutinise the messages they are exposed to in network sessions critically (I counted among them). A more radical obstacle to adaptive learning is if participants are simply unable to understand these messages, because their English or French level is sufficient, something that did not seem implausible. One of the Swiss delegates considered that countries advanced in terms of knowhow like Switzerland provide some sort of “development aid” to countries with lower levels of administrative performance, but wondered if these bureaucracies were doing their job seriously and if they are able to disseminate inside their home country what they learn outside. Such limitations inevitably introduce “noise” in mutual understandings that is likely to undermine the effectiveness of the knowledge transfer process.

Finally, I did not observe much “peer” accountability—“based on mutual monitoring of one another’s performance” (Goodin 2003: 378)—to be at work in the network. If one considers the three necessary sequences of an accountability process described by Bovens (2011)—the provision of information, debate on this information, and sanctions (positive and negative)concluding the debates—, only the first sequence is present in the EPRA network. True, each regulator submits an activity report which is made available on the EPRA website, but it is very uncertain if these reports are widely read and there is no debate on them. Since they are not discussed in the network, there is no need for their authors to provide any justifications; neither do peers have the opportunity to position themselves publicly on them and to exert pressure on their

¹⁹ Studying the transposition of EU directives, Falkner et al. (2008) treated the universe of European peripheral countries as a “world of neglect”. It is not exactly the same situation that is described here. If people do not comply with regulations, it is not because they do not bother about them, but because they do not want to entail the costs related to them, being much more guided in their conduct by a “logic of consequences” (March and Olsen 2009) that weighs costs and benefits of compliance, than by a “logic of appropriateness” where compliance is dictated by social pressure.

authors through their judgement. If any common norms emerge in such a soft network, this is not due to social conformity dictated by strategic calculations (or in other words to the adherence to the “logic of consequences”). Of course, things may be different in a more cohesive network,²⁰ and this is not to say that mutual accountability was never an issue in the meeting I attended.

In one of the sessions, a participant from Luxemburg mentioned cooperation problems with the regulator of the French part of Belgium. The latter was perceived as excessively intrusive on domestic matters, and the participant from Luxemburg asserted that his authority did not have to provide accounts to a foreign regulator. Embarrassed by the situation, the panel chair gave the floor to the Belgian regulator, whose representative explicitly mentioned that because regulation requires cooperation between equals, a smooth exchange of information between them would be a sign of courtesy. Interestingly, I also observed informal accountability *vis-à-vis* the European Commission, although the latter only participated as an observer in the network. In the morning of the second day, there was a discussion on the transposition by member states of an EU directive on program monitoring. Although we know from comparative research on Europeanisation that the rhythm and consistency of transposition by national administrations varies cross-nationally and that there can be significant gaps in the implementation of EU legislation (Falkner et al. 2008), an EPRA meeting is not the formal setting where such problems are solved. The Commission official mentioned these problems only incidentally and with a touch of humour in one of his interventions, but I saw him repeatedly chasing members of various agencies at the coffee break (!) to talk with them about what he considered transposition problems in national legislations.

CONCLUSION

This paper was mainly based on direct observation. Although direct access to the operation of networks is not often available to researchers, I was lucky enough to overcome this obstacle. It can be argued that what I learnt from my participation in the EPRA meeting could also be learnt just by conducting interviews with network members, and these interviews would admittedly be richer than those conducted informally during the meeting breaks (in addition, interviews might be recorded and transcribed, which would increase their validity as proofs). However, doing my fieldwork within the meeting made me make much better sense of the social interactions in the EPRA network and was necessary for triangulating the information I acquired. I observed a number of things, discussed my interpretations of these observations with participants, and their feedback confirmed, enriched, refined, or amended my interpretations. If I reflect counterfactually on my own research practice, without this back-and-forth process metaphorically described as “yo-yo fieldwork” (Rhodes et al. 2007: 207), I would be much less assertive on my conclusions. This does not mean that modesty is superfluous: after all what I do is provide “my interpretation of their [the EPRA meeting participants’] interpretation of what the world looks like through their eyes” (Rhodes 2011: xii). This limitation is not specific to research on

²⁰ That accountability to peers can be conducive to the sheer appearance of conformity to their expectations, inducing thus “thin” rather than “thick” learning (Radaelli 2008), has nevertheless been underestimated.

direct observation, but it is openly assumed here. What kind of insights could I develop, then, on the operation of the EPRA?

- I think that my first important observation is about the limits to the “problem-solving” role of the network for a number of participants who are too preoccupied with their fate that depends on domestic politics. The motivations of these actors for learning can be understandably rather low, and to this limit we may add obstacles of a cognitive nature to learning: some participants may lack the expertise to implement what they could (in principle) learn from the network.
- Another observation is that the precise meaning of “networking” is still not very clear to me even after the network meeting. This could be my fault, but I suspect that even in participants’ minds the concrete benefits of networking are not always clear. Besides, although the informal parts of the meeting can serve for networking, this should not be overestimated: probably some of those who are the most likely to benefit from it find it difficult to overcome their isolation.
- Coming now to the crucial issue of the presence of “puzzling” and “powering” in network deliberations, at least in this forum of very “soft” policy coordination the problem-solving atmosphere clearly predominated. Some divergences regarding regulatory styles or national interests manifested themselves, and in these cases seeking support in the network for one’s options appeared rational, but there was a diffuse “diplomatic” ethos and concern with conflict-avoidance. The absence of power games does not mean that authority was evenly distributed within the network: some actors clearly appeared as more legitimate message producers than others, and this empowered them because they could occupy the deliberative terrain. I counted among them the (elective) members of the EPRA board, regulators from large states whose regulatory paradigms diverge (the British Ofcom and the French CSA), as well as the European Commission, which cast its “shadow” as an accountability-holder, notwithstanding its formal status as an observer. In this kind of loose network, treating the network as such as a socialising agency that produces a common message would not make much sense. But this is not to say that there are no agents endowed with sufficient authority to socialise to their views other agents within the network.
- Finally, direct observation coupled with informal interviews made me learn about the learning function of a meeting like that of the EPRA. On the one hand, the weakly politicised atmosphere with conflict-laden issues being kept out of the discussions is an ideal setting for problem-solving oriented deliberations. On the other hand, given the lack of ambition in the network functions, socialisation can only proceed in a very soft manner. Such a loose network does not leave much discretion even for highly skilful “norm entrepreneurs”. When actors learn in this network, they draw inspiration from entities they consider models, either because they enjoy authority, or because they are believed to face common problems (and learning who these entities are is part of the process). The pedagogical function of the network is particularly important given its heterogeneity and the existence of strong informational asymmetries between its members. At the same time, these are limits to learning: there are actors,

probably among those most in need of learning, who either cannot set learning as their first priority, or suffer from cognitive limitations inhibiting learning. Interestingly, and contrary to frequent assumptions about the socialising function of networks being wielded through “peer” accountability, I could not identify any mechanisms related to that. I would thus hardly consider in this case social pressure to be the engine of behavioural change (say in the direction of making credible commitments to network partners), but things might be different in more *dirigiste* networks.

Even a very limited direct observation can thus provide some interesting insights for a more fine-grained understanding of network dynamics and for theoretical development. However, as already noted in the beginning of this paper, one must be cautious about the more general relevance of findings based on this kind of approach. Evidence based on a single event may lack robustness: the brevity of my acquaintance with the EPRA would probably shock classic ethnographers who would criticise the shallowness of my immersion (but this facilitated keeping my presence unnoticed), and direct observation did not allow rigorously identifying the causal processes at work regarding network influence, because the outcomes of such an influence could not be directly observed. In addition, direct observation by a single researcher does not allow for double-check procedures equivalent to those designed for testing inter-coder reliability. Notwithstanding the merits of this kind of fieldwork, there is a risk that the researcher’s immersion into his or her object prevents him or her from identifying the features of this object that are idiosyncratic. Therefore this paper’s ambition does not go beyond seeking to provide a persuasive account of *one* meeting of *one* network. However, this account can also serve exploratory purposes. It generates on an inductive basis conjectural knowledge about the operation of regulatory coordination through networks. These hypotheses are in search of external validation, and the scope conditions applying to potential generalisation should be specified as well. It remains to hope that in the close future it will be possible to observe *in situ*, and over a longer period, the operation of other regulatory networks as well.

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